

STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY:
AND MUNICIPAL EMPLOYEES, AFL-CIO,
LOCAL 1580

Complainant:

CASE NO. A-0417:4

and

DECISION NO. 780026

CITY OF CONCORD, NEW HAMPSHIRE

Respondent:

APPEARANCES

Representing AFSCME, Local 1580:

James J. Barry, Esq., Counsel

Representing the City of Concord:

Paul F. Cavanaugh, Esq., City Solicitor

Witnesses:

For AFSCME: Thomas J. Croteau, Member of Local 1580
Richard R. Roy, " " " "
Warren Miner, " " " "

For the City: Joseph C. Musumeci, Personnel Director
Walter E. Norris, Wastewater Superintendent

Also in Attendance:

Thomas A. White, City of Concord
William H. Wilson, " " "
J. Harvey Russell, Local 1580
Gordon E. Moore, " "
Fred J. Crowley, " "

BACKGROUND

On February 3, 1978, unfair labor practice charges were filed against the City of Concord, by J. Harvey Russell, President of Local 1580, AFSCME, alleging violation of RSA 273-A:5(a), (b), (g), (h) and (i); that a member of Local 1580, Thomas Croteau, had been denied access to his complete personnel file; and, that the Supervisor of the Wastewater Plant, in the presence of Croteau and his shop steward, removed certain papers from his personnel file.

Further allegations were made indicating that employees were required to attend plant meetings on their own time off and getting paid for only one hour, contrary to the existing agreement which states:

Article XIII "Employees recalled after completion of their own normal work day shall be paid at the rate of time and one half the regular rate and shall be guaranteed a minimum of three hours at such rate."

On March 6, 1978, AFSCME, Local 1580, through its representative, J. Harvey Russell, filed additional charges of unfair labor practice against the City of Concord for alleged violation of RSA 273-A:5 (d) by suspending Thomas Croteau, without pay, for the filing of charges in the above case.

The case further involved failure to follow the grievance procedure set forth in the contractual agreement between the City and Local 1580 pending resolution of the unfair labor charges before PELRB.

Hearing on the charges was held on March 29, 1978 in the Board's office and after several witnesses were heard, hearing was continued to a later date. Hearing was resumed on May 12, 1978. The March 29th hearing was chaired by Acting Chairman Richard H. Cummings with Members Edward L. Allman and Joseph B. Moriarty present; the continuation on May 12th was chaired by Chairman Edward J. Haseltine with Members Cummings and Moriarty present.

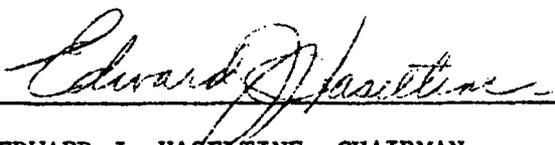
FINDINGS OF FACT

1. At the time Mr. Croteau attempted to review his personnel file, certain written memoranda, which had not been cleared by the Personnel Office, were removed from his file in his presence and in the presence of the Shop Steward.
2. All materials were returned to the Croteau personnel file and he and his union representatives were offered an opportunity to review the complete file.
3. No attempt was made by either party to review the complete file subsequent to the initial request.

DECISION AND ORDER

After reviewing all of the testimony and written evidence, the Public Employee Labor Relations Board rules, as follows:

The Board finds the City of Concord NOT guilty of unfair labor practice under RSA 273-A:5 and further orders both parties to pursue the grievance procedure in accordance with Article VIII of their contractual agreement.



EDWARD J. HASELTINE, CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 5th day of July, 1978

By unanimous vote. Member James C. Anderson took no part in the discussions or decision making in this case.